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10/596,378	06/12/2006	Doron Korman	13004.1020	5907
35856 7590 10/21/2011 SMITH RISLEY TEMPEL SANTOS LLC Two Ravinia Drive Suite 700 ATLANTA, GA 30346				
EXAMINER				
GOYTEA, OLUSEGUN				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,378

Applicant(s)

KORMAN, DORON

Examiner

OLUSEGUN GOYEA

Art Unit

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-840)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Prosecution Summary History

This final office action is in response to Applicant's submission filed 08/03/2011. Currently, claims 1-8 and 26-30 are pending. Claims 1-8 and 26-30 have been amended.

Response to Amendment

Applicant's amendments to claim 26 are sufficient to overcome the rejections of claims 26-29 as set forth in the previous action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2001/0053987 (Kleinschmidt et al. – hereinafter Kleinschmidt) in view of US 5,964,700 (Tallman et al. – hereinafter Tallman).

Referring to **claim 1**, Kleinschmidt discloses a system for delivering medical assistance to a patient traveler while visiting in a foreign country, the traveler utilizing a client system, the method comprising the steps of:

 sending a request to a server; [see paragraph 0013, claim 1]

 the server delivering to the client device system the medical assistance associated with the selected button;

 wherein the request determines that the medical assistance is delivered in a form selected from the group consisting of a language associated with the foreign country and a format customized to the foreign country. [see paragraph 0010, 0013 – *The output information is provided in the foreign language and format of the country the patient is located.*]

But Kleinschmidt does not explicitly disclose the limitations:

 displaying one or more selection buttons on a display of the client system, wherein each selection button is associated with at least one type of medical assistance; and receiving a selection of one of the selection buttons.

However, Tallman teaches a similar system with the limitations: displaying one or more selection buttons on a display of the client system, wherein each selection button

is associated with at least one type of medical assistance; and receiving a selection of one of the selection buttons. [see col. 26, line 1 - col. 27, line 5; figures 6, 8, 18, 19, 26]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize an interface containing a plurality of medical assistance selection as in Tallman in the system executing the method of Kleinschmidt with the motivation of providing an interface for providing selection of medical assistance as taught by Tallman over that of Kleinschmidt.

Referring to **claim 4**, Kleinschmidt discloses system as applied in the rejection of claim 1 above, wherein the client system and server system communicate via the Internet and the step of sending the request to the server comprises sending the request over the Internet. [see paragraph 0013, figure 1 – *It is obvious that an internet connection is required to deliver a webpage or email.*]

Claims 2, 3, 26, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2001/0053987 (Kleinschmidt) in view of US 5,964,700 (Tallman), and further in view of US 20040204837 (Singleton).

Referring to **claim 2**, the combination of Kleinschmidt and Tallman discloses the system as applied in the rejection of claim 1 above, wherein the step of delivering the medical assistance comprises selecting medical assistance from a group consisting of:

a translation of a prescription into the language associated with the foreign country, a translation of medical information associated with the traveler into the language associated with the foreign country, and online medical consulting in a preferred language of the traveler. [see Kleinschmidt paragraph 0013, 0014]

But the combination does not explicitly disclose the limitation: wherein the step of delivering the medical assistance comprises selecting medical assistance from a group consisting of: information on the availability of medical services in the foreign country, a medical referral information in the language associated with the foreign country, and online drug consultation in the preferred language of the traveler.

However, Singleton teaches a similar method and system with the limitation: wherein the step of delivering the medical assistance comprises selecting medical assistance from a group consisting of: information on the availability of medical services in the foreign country, a medical referral information in the language associated with the foreign country, and online drug consultation in the preferred language of the traveler. [see paragraph 0006, 0007, 0054, 0057 – *Medical services provided in a foreign country can be made available to a user/patient during travel.*]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the medical services database as in Singleton in the system executing the combination of Kleinschmidt and Tallman with the motivation of providing medical services to a traveler in a foreign location as taught by Singleton over that of the combination of Kleinschmidt and Tallman.

Referring to **claim 3**, the combination of Kleinschmidt and Tallman discloses the system as applied in the rejection of claim 1 above. But the combination does not explicitly disclose the limitation: wherein the at least one type of medical assistance associated with a selection button includes the provision of an over the counter (OTC) prescription available in the foreign country.

However, Singleton teaches a similar method and system with the limitation: wherein the at least one type of medical assistance associated with a selection button includes the provision of an over the counter (OTC) prescription available in the foreign country. [see paragraph 0006, 0007, 0054, 0057 – *It would be obvious to one of ordinary skill in the art that the method and system can be used to provide the user/patient with available medicine/drugs during travel or in a foreign destination, as used in providing treatment/care to the patient.*]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the medical services database as in Singleton in the system executing the combination of Kleinschmidt and Tallman with the motivation of providing medical services to a traveler in a foreign location as taught by Singleton over that of the combination of Kleinschmidt and Tallman.

Referring to **claim 26**, Kleinschmidt discloses a system for delivery medical assistance to a patient traveler, the server being accessible by a traveler who is traveling in a foreign country and operating a client device, the server comprising:

a webpage generating module executing within the server for delivering the medical assistance associated with the selection buttons; and [see paragraph 0010, 0013 – *The output information is provided in the foreign language and format of the country the patient is located, in response to the request.*]

wherein the selection received by the communication module determines that the medical assistance is delivered in a form selected from the group consisting of a language associated with the foreign country and a format customized to the foreign country. [see paragraph 0010, 0013 – *The output information is provided in the foreign language and format of the country the patient is located.*]

But Kleinschmidt does not explicitly disclose the limitations: a communication module executing within the server and operative to communicate information illustrating a display of one or more selection buttons on a display of the client device, wherein each selection button is associated with the at least one type of medical assistance;

a communication module executing within the server and operative to receive a selection of one of the selection buttons; and

a database access module executing within the server and operative to access at least one of: a medical services and clinics database, a prescription database, a sickness database and a referral database.

However, Tallman teaches a system with the limitations: a communication module executing within the server and operative to communicate information illustrating a display of one or more selection buttons on a display of the client device,

wherein each selection button is associated with the at least one type of medical assistance; and a communication module executing within the server and operative to receive a selection of one of the selection buttons. [see col. 26, line 1 - col. 27, line 5; figures 6, 8, 18, 19, 26]

In addition, Singleton teaches a system with the limitation: a database access module executing within the server and operative to access at least one of: a medical services and clinics database, a prescription database, a sickness database and a referral database. [see paragraph 0043, 0032]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the medical assistance interface and medical services database as in Tallman and Singleton in the system executing the method of Kleinschmidt with the motivation of providing medical services to a traveler in a foreign location as taught by Tallman and Singleton over that of Kleinschmidt.

Referring to **claim 27**, it contains similar limitations as set forth in claim 4, and therefore is rejected based on the same rationale.

Referring to **claim 30**, it contains similar limitations as set forth in claim 26, and therefore is rejected based on the same rationale.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2001/0053987 (Kleinschmidt) in view of US 5,964,700 (Tallman), and further in view of US 20050075909 (Flagstad).

Referring to **claim 5**, the combination of Kleinschmidt and Tallman discloses the system as applied in the rejection of claim 1 above. But the combination does not explicitly disclose the limitation: further comprising a life saving article, the life saving article identifying emergency medical information that is related to the traveler and a URL for the server, and the step of sending a request to a server further comprises sending the request to the URL identified on the life saving article.

However, Flagstad teaches a system with the limitation: further comprising a life saving article, the life saving article identifying emergency medical information that is related to the traveler and a URL for the server, and the step of sending a request to a server further comprises sending the request to the URL identified on the life saving article. [see paragraph 0048-0049, 0059]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize memory device as in Flagstad in the system executing the combination of Kleinschmidt and Tallman with the motivation of providing access to a patient's medical information during a medical emergency as taught by Flagstad over that of the combination of Kleinschmidt and Tallman.

Referring to **claim 6**, the combination of Kleinschmidt and Tallman discloses the method and system as applied in the rejection of claim 5 above. But the combination does not explicitly disclose the limitation: wherein the life saving article is selected from a group consisting of a necklace with a notice plate, a plastic card, a key-holder with a medical plate and a sticker.

However, Flagstad teaches a system with the limitation: wherein the life saving article is selected from a group consisting of a necklace with a notice plate, a plastic card, a key-holder with a medical plate and a sticker. [see paragraph 0022]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize memory device as in Flagstad in the system executing the combination of Kleinschmidt and Tallman with the motivation of providing access to a patient's medical information during a medical emergency as taught by Flagstad over that of the combination of Kleinschmidt and Tallman.

Referring to **claim 7**, the combination of Kleinschmidt and Tallman discloses the method and system as applied in the rejection of claim 5 above. But the combination does not explicitly disclose the limitation: wherein the life saving article comprises an emergency password and the step of sending a request to the server further comprises sending the emergency password.

However, Flagstad teaches a system with the limitation: wherein the life saving article comprises an emergency password and the step of sending a request to the server further comprises sending the emergency password. [see paragraph 0048 – *The*

memory device contains a password number used to access medical information of the person from a service provider's website located on the memory device.]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize memory device as in Flagstad in the system executing the combination of Kleinschmidt and Tallman with the motivation of providing access to a patient's medical information during a medical emergency as taught by Falgstad over that of the combination of Kleinschmidt and Tallman.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2001/0053987 (Kleinschmidt) in view of US 5,964,700 (Tallman), and further in view of US 20040204837 (Singleton) and US 20050075909 (Flagstad).

Referring to **claim 28**, the combination of Kleinschmidt, Tallman and Singleton discloses the system as applied in the rejection of claim 26 above. But the combination does not explicitly disclose the limitation: additionally comprising a life saving article selected from a group consisting of a necklace with a notice plate, a plastic card, a key-holder with a medical plate and a sticker, wherein said life saving article comprises a URL for the server for enabling the sending a request to a server via said URL.

However, Flagstad teaches a system with the limitation: additionally comprising a life saving article selected from a group consisting of a necklace with a notice plate, a plastic card, a key-holder with a medical plate and a sticker, wherein said life saving

article comprises a URL for the server for enabling the sending a request to a server via said URL. [see paragraph 0022, 0048-0049, 0059]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize memory device as in Flagstad in the system executing the combination of Kleinschmidt, Tallman and Singleton with the motivation of providing access to a patient's medical information during a medical emergency as taught by Falgstad over that of the combination of Kleinschmidt, Tallman and Singleton.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2001/0053987 (Kleinschmidt) in view of US 5,964,700 (Tallman), and further in view of US 4803625 (Fu et al. – hereinafter referred to as Fu).

Referring to **claim 8**, the combination of Kleinschmidt and Tallman discloses system as applied in the rejection of claim 1 above. But the combination does not explicitly disclose the limitation: further comprising a medical measurement device that can be attached to the traveler and is operable to take certain medical measurements of the traveler, and the method further comprises the step of taking the certain medical measurements and transferring the certain medical measurements to the server.

However, Fu teaches a system with the limitation: further comprising a medical measurement device that can be attached to the traveler and is operable to take certain medical measurements of the traveler, and the method further comprises the step of

taking the certain medical measurements and transferring the certain medical measurements to the server. [see col. 5, lines 6-26;]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the health vitals measuring device as in Fu in the system executing the combination of Kleinschmidt and Tallman with the motivation of measuring and transferring health vitals for storage as part of a patient's medical information as taught by Fu over that of the combination of Kleinschmidt and Tallman.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 2001/0053987 (Kleinschmidt) in view of US 5,964,700 (Tallman), and further in view of US 20040204837 (Singleton) and US 4803625 (Fu).

Referring to **claim 29**, the combination of Kleinschmidt, Tallman and Singleton discloses the system as applied in the rejection of claim 26 above. But the combination does not explicitly disclose the limitation: additionally comprising a medical measurement device operative to be attached to said traveler and to take medical measurements of said traveler and to transfer said medical measurements to said server.

However, Fu teaches a system with the limitation: additionally comprising a medical measurement device operative to be attached to said traveler and to take medical measurements of said traveler and to transfer said medical measurements to said server. [see col. 5, lines 6-26;]

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the health vitals measuring device as in Fu in the system executing the combination of Kleinschmidt, Tallman and Singleton with the motivation of measuring and transferring health vitals for storage as part of a patient's medical information as taught by Fu over that of the combination of Kleinschmidt, Tallman and Singleton.

Response to Arguments

Applicant's arguments with respect to the rejection of claims 1 and 4 under 35 U.S.C. 103(a) as being unpatentable over US 2001/0053987 (Kleinschmidt) in view of US 5,964,700 (Tallman) have been fully considered but they are not persuasive.

Applicant argues that Kleinschmidt describes:

"information system for patient groups, particularly for members of a company, has a server, which contains the personal data and medical data of a patient and which is connected to a data input device and a data output device. The server has a variable data input device enabling an inquiry about different location-variable data request stations and different data transmission systems and has an intelligent data output device producing a data output that is adapted to the type of the data request station, or corresponding to a user request." [Abstract]

Applicant further argues that, it is clear that the data managed and provided by Kleinschmidt system is limited to personal data, as stated clearly in pars 14: The server 7 is connected to a database 10, in which the name, address, the communication addresses of the patient and the insurance, the primary physician and all specialists, who have treated the patient earlier, are stored for each patient, as well as medical data such as the blood type, vaccinations, overcome illnesses, normal blood pressure, normal pulse, last EKG, incompatibilities, allergies, acute diseases, prescribed medication and its ingredients, etc.

Applicant submits that, only this "data are provided with a specific output format, namely a foreign language translation, for example, as a WEB page, WAP page, email, text to speech conversion, etc." [pars 13]. Applicant submits that Kleinschmidt teaches the translation of the patient's personal data only, which is not claimed by the present invention. Furthermore, it is evident that the translation of the personal data is provided to the caretaker, not to the traveling patient. For Kleinschmidt, the term "format" is limited to the communication standard of the output device namely: "WEB page, WAP page, email, text to speech conversion, etc." [pars 13]. Applicant respectfully submits that Kleinschmidt's "format" is not "customized to the foreign country".

Applicant submits that Tallman describes: a medical network management system (NMS) (20), health plan beneficiaries access a team of health care professionals

over the telephone to help them assess their health needs and select appropriate care.

[Abstract]

Applicant submits that Tallman describes a software tool operating on a workstation to: enable a trained nurse to sort patients into different risk categories, safely and effectively without requiring a medical diagnosis. Patients can then be guided to an appropriate level and type of care for their problem(s) based on their level of risk and set of potential needs. [col. 4 lines 6-13]

Therefore, the user interface detailed by Tallman is used by the trained nurse performing a primary triage. It is not intended for the user traveling abroad. Hence, the language selection is also triggered by the trained nurse and not by the user traveling abroad.

Applicant submits that that the information delivered by Kleinschmidt does not consist of medical assistance to a patient, as it includes only medical information about the patient, useful for medical personnel. Tallman's system too is used by the trained nurse for triage purposes and therefore is not intended as is to provide medical assistance to the patient. Furthermore, Applicant respectfully submits that neither Tallman nor Kleinschmidt teach medical assistance "customized to the foreign country". Kleinschmidt does not teach such because there is no need to customize personal information to the foreign country. Tallman does not teach such because there is no foreign country. Hence, Applicant respectfully submits that no combination of Kleinschmidt and Tallman can be regarded as prior art to the requested claims. Even further, Applicant respectfully submits that Tallman does not teach selection buttons

used by the user to select language or to direct the server to provide medical assistance "customized to the foreign country".

Applicant submits that claims 1 is allowable as well as its dependent claims.

In response to Applicant's argument Examiner respectfully disagrees.

The system according to Kleinschmidt teaches "[a] tele-health information system for patient groups, particularly for members of a company, has a server, which contains the **personal data and medical data** of a patient and which is connected to a data input device and a data output device. [Abstract]

Kleinschmidt describes that an object of the invention "[a]n object of the invention is to provide a tele-health information device for patients of a group in a foreign country, namely particularly members of a company, which also assures the availability of the necessary medical documents and the potential help of the primary physician if a medical pathology arises at a location in a foreign country, even under primitive conditions. [see paragraph 0006]

Paragraph 0013 of Kleinschmidt teaches that "[t]he personal mobile telephone 1 of the patient, a public telephone 2, a fax machine 3, a PDA 4, specifically the personal PDA of the patient, a WEB-TV 5 or the PC 6 of the physician treating in the foreign country **can serve as a location-variable data request station** in the foreign country for using the inventive tele-health information device... **If the dialing patient is not automatically identified via his or her personal mobile telephone or PDA as a result of a stored authenticating access code—a pin number and the**

communication number of the access device must be entered, so that the server can recognize that the requesting person is authorized for access and so that the server knows where to send the bits of information... Furthermore, the data are provided with a specific output format, namely a foreign language translation, for example, as a WEB page, WAP page, email, text to speech conversion, etc." [see paragraph 0013]

Also, paragraph 0014 teaches that "[t]he server 7 is connected to a database 10, in which the name, address, the communication addresses of the patient and the insurance, the primary physician and all specialists, who have treated the patient earlier, are stored for each patient, **as well as medical data such as the blood type, vaccinations, overcome illnesses, normal blood pressure, normal pulse, last EKG, incompatibilities, allergies, acute diseases, prescribed medication and its ingredients, etc.**

From the above paragraph, Kleinschmidt teaches that a patient in a foreign country can dial into a central server to retrieve both personal and medical data. In addition, the output data/information is provided in a foreign language translation and outputted either as a WEB/WAP page format, email, text to speech conversion, etc. It is obvious that information outputted in either of the formats is provided in a foreign language.

In addition, rejected claim 2 teaches that one of the medical assistance may be a translation of medical information associated with the traveler into the language associated with the foreign country.

Thus, the teachings of Kleinschmidt, at least teaches or suggests, providing a medical assistance to a patient traveler in a foreign country in the language of the foreign country.

Further, the system according to Tallman teaches an interface, displaying a plurality buttons for selection by a user, to request a type of medical assistance. The system delivers a response based on the type of selection received. [see col. 26, line 1 - col. 27, line 5; figures 6, 8, 18, 19, 26]

Thus, it would have been obvious to one of ordinary skill in the art incorporated the teaching of providing a user interface as in Tallman in the system of Kleinschmidt to request medical assistance by a patient traveler in a foreign country.

"The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also *In re Sneed*, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) ("[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review."); and *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973)

Applicant's arguments with respect to the rejection of claims 2, 3, 26, 27 and 30 under 35 U.S.C. 103(a) as being unpatentable over Kleinschmidt in view of Tallman and

further in view of US 2004/0204837 (Singleton) have been fully considered but they are not persuasive.

Regarding claim 2, Applicant submits that Singleton teaches a "system for identifying medical facilities along a travel route" [Abstract]. However, Singleton's system and method do not deliver any medical assistance to the user. Thus, Singleton cannot possibly deliver medical assistance in a language associated with the foreign country and/or a format customized to the foreign country.

Applicant submit that, regarding "information on the availability of medical services in the foreign country", Singleton teaches the locating of "medical facilities along a travel route" [Abstract] and within range [para 57], and not necessarily in a specific country.

Furthermore, Applicant submits that Singleton provides the information to an intermediating person such as an aircraft crew member, not the patient. Hence, Applicant respectfully submits that the information is not in a language associated with the foreign country and/or a format customized to the foreign country.

Therefore, such information is not available in Singleton's database.

Applicant submits that:

Regarding "a translation of medical information associated with the traveler into the language associated with the foreign country", Applicant submits that Singleton does not teach translation.

Regarding "medical referral information in the language associated with the foreign country", Applicant submits that Singleton does not teach referral information, and particularly not "referral information in the language associated with the foreign country". Thus, such information is not available in Singleton's database.

Regarding, "online medical consulting in a preferred language of the traveler", Applicant submits that Singleton does not teach providing the information to the traveling patient and therefore Singleton's database cannot deliver information "in a preferred language of the traveler". Furthermore, Singleton teaches "language" solely as a search parameter [para 5, 13, 25, 32, 47, 55, 57].

Regarding "online drug consultation in a preferred language of the traveler", Applicant submits that Singleton does not teach providing drug or related information or consultation. Furthermore, Singleton does not teach providing the information to the traveling patient. Even further, Singleton does not teach translation and therefore cannot teach providing "drug consultation in a preferred language of the traveler". Hence, Singleton's database does not maintain any such information.

Applicant respectfully submits that the combination of and Kleinschmidt, Tallman and Singleton cannot teach the combination of claims 1 and 2. Particularly, none of these cited prior art teach such particular information provided in a language associated with the foreign country and/or a format customized to the foreign country. Applicant therefore respectfully submits that claim 2 is allowable.

In response to Applicant's above arguments, Examiner respectfully disagrees.

The system according to Kleinschmidt teaches "[a] tele-health information system for patient groups, particularly for members of a company, has a server, which contains the **personal data and medical data** of a patient and which is connected to a data input device and a data output device. [Abstract]

Kleinschmidt describes that an object of the invention "[a]n object of the invention is to provide a tele-health information device for patients of a group in a foreign country, namely particularly members of a company, which also assures the availability of the necessary medical documents and the potential help of the primary physician if a medical pathology arises at a location in a foreign country, even under primitive conditions. [see paragraph 0006]

Paragraph 0013 of Kleinschmidt teaches 1, a public telephone 2, a fax machine 3, a PDA 4, specifically the personal PDA of the patient, a WEB-TV 5 or the PC 6 of the physician treating in the foreign country **can serve as a location-variable data request station** in the foreign country for using the inventive tele-health information device... ***If the dialing patient is not automatically identified via his or her personal mobile telephone or PDA as a result of a stored authenticating access code--a pin number and the communication number of the access device must be entered***, so that the server can recognize that the requesting person is authorized for access and so that the server knows where to send the bits of information... Furthermore, the data are provided with a specific output format, namely a foreign language translation, for example, as a WEB page, WAP page, email, text to speech conversion, etc. [see paragraph 0013]

Also, paragraph 0014 teaches that "[t]he server 7 is connected to a database 10, in which the name, address, the communication addresses of the patient and the insurance, the primary physician and all specialists, who have treated the patient earlier, are stored for each patient, ***as well as medical data such as the blood type, vaccinations, overcome illnesses, normal blood pressure, normal pulse, last EKG, incompatibilities, allergies, acute diseases, prescribed medication and its ingredients, etc.***

From the above paragraphs, Kleinschmidt teaches "translation of medical information associated with a traveler into a foreign language associated with the foreign language".

The system according to Singleton teaches "[a] system for identifying medical facilities along a travel route..." Though, the system does not specifically describe a foreign country, it is obvious that the system is application to a foreign country at a location along the travel route. For example, a "midway between Belize and Tokyo" (see paragraph 0006), it is obvious that the patient is in a foreign location.

Singleton teaches that it is therefore desirable for the patient (or someone else on board the vehicle, such as a crew member) to be able to quickly identify (1) the location of one or more medical facilities near the vehicle or otherwise along the travel route, and/or (2) contact information related to such medical facilities. [see paragraph 0004 - *It is obvious the use of the system is not limited to a caregiver, but also used by the patient.*]

In addition, Singleton teaches that "...the database preferably includes for each medical facility in the database: (1) the location (e.g., address), (2) contact information, including the phone number, (3) the type of medical services provided, (4) a quality rating for the facility based on services provided, and (5) languages spoken at the facility... Once notified of the medical emergency, the communications specialist determines if the medical emergency requires consultation with a physician. This initial determination is sometimes referred to as triaging. If the medical emergency requires consultation with a physician, the communications specialist contacts an emergency room physician. The physician may then direct either the flight crew or passengers in treating the patient. [see paragraph 0005 and 0006 – *Thus, medical consultation can be provided to a user of the system.*]

Further, Singleton describes that some of the information contained in the database may include: "types of medical services (e.g., the available medical services are identified and cataloged to enable matching a medical emergency with medical facilities capable of handling it. For example, if a medical facility has a magnetic resonance imaging machine (MRI), or radiological equipment, that medical facility can be cataloged to provide medical services requiring such equipment, e.g., services relating to fractures or internal scans.); (iii) medical staff and languages spoken (the names, background and languages of doctors and medical staff including respective practice areas may be catalogued to assist in evaluating and identifying a medical facility, for example, by matching specialties and languages to a given medical emergency..." [see paragraph 0047 and 0055 - *The system matches the language of*

the patient with language of the staff and members of the medical facility. It is obvious that the medical consultation would be delivered in the language of the traveler.]

From the teachings of Singleton, medical consultation can be delivered to a patient or user of the system in a preferred language of the patient or user (caregiver). In addition, it would be obvious to one of ordinary skill in the art that the system can be configured to deliver other types of medical assistance available to a patient traveler in a foreign location.

Thus, the combination of Kleinschmidt, Tallman and Singleton, at least teaches or suggest, receiving a request for medical assistance from a patient traveler and delivering the results in a language associated with the foreign country/location.

One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986)

"The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also *In re Sneed*, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) ("[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review."); and *In re Nievelt*, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973)

Regarding claim 3, submits that, being airborne, Singleton does not teach any provisioning of medicine, medication, prescription or their likes. Furthermore, Singleton does not teach the provision of any such "in the foreign country". Obviously, none of Kleinschmidt, Tallman and Singleton or their combination teaches the combination of claims 1 and 3, namely, the provision of an over the counter (OTC) prescription available in the foreign country, associated with a selection button, and in a language associated with the foreign country and/or a format customized to the foreign country.

In response to Applicant's arguments, Examiner respectfully disagrees.

The system according to Singleton teaches that "...the database preferably includes for each medical facility in the database: (1) the location (e.g., address), (2) contact information, including the phone number, (3) the type of medical services provided, (4) a quality rating for the facility based on services provided, and (5) languages spoken at the facility.

Although, the system according to Singleton teaches providing information regarding medical services and facilities available in a foreign location, it is would be obvious to one of ordinary skill in the art that the system can be configured to deliver other types of medical assistance/services available to a patient traveler in a foreign location.

Regarding claims 26 and 30, Applicant submits that the present application claims a server, the server including: communication modules operative to provide selection buttons and receive user selection by means of the selection buttons; a database access module; and a web-page generating module; where "the selection received ...determines .. the medical assistance ... delivered in a form selected from .. a language associated with the foreign country and a format customized to the foreign country."

Applicant argues that, as explained above, Kleinschmidt teaches translation of the patient's medical data, not the translation of medical assistance, while Tallman teaches a triage tool for use by a nurse or a similar medically trained person, not by a user. Therefore, the combination of Kleinschmidt and Tallman would provide a web page translation of a triage tool to be used by a nurse, which is not what is claimed by the present application.

Applicant submits that the present application teaches a patient that is known to the system including his medical history and current medical treatment, therefore triage is not the purpose. The required medical assistance is peculiar to the patient and "delivered in a form selected from the group consisting of a language associated with the foreign country and a format customized to the foreign country". This feature is lacking from both Kleinschmidt and Tallman.

Further, Applicant submits that, Tallman does not teach a clinics database, a prescription database, a sickness database and a referral database that are country

specific. Therefore, Kleinschmidt's web-page cannot translate what is lacking from Tallman.

Additionally, Applicant submits that, as detailed above with reference to claim 1, Kleinschmidt and Tallman do not provide prior art for the limitations of claims 26 or 30 with the database limitation excluded. Thus, adding Singleton database teaching is insufficient to reject claims 26 or 30.

Applicant further claims that nowhere does Singleton teach prescription or referral database. Singleton does teach a "Medical facility database" as follows [pars 32]: "The information regarding each of the medical facilities may include, but is not limited to, one or more of the following: (1) name and location, (2) contact information, such as phone number, fax number and contact personnel, (3) its relative location to suitable stopping points and/or transportation infrastructure (e.g., airports, highways, bus stations, train stations and ports), (4) directions to the facility, (5) types of medical services offered, (6) the identity of staff members and the associated specialties/background of each, (7) an overall quality rating, (8) a quality rating for each medical specialty offered, (9) payment options available including accepted insurance providers, and (10) languages spoken by employees or staff members. Medical facility database 330 only need include the name and location of each medical facility."

Also, Applicant submits that that using Singleton's database teaching requires interpreting the navigation instructions to the flight crew as medical assistance to the patient, and that Kleinschmidt teaches delivering such information "in a form selected

from the group consisting of a language associated with the foreign country and a format customized to the foreign country".

In response to Applicant's arguments, Examiner respectfully disagrees.

For similar reasons as discussed above for claim 1, claims 26 and 30 are unpatentable over the cited references.

In addition, the system according to Singleton teaches that "[o]ne or more of the following items are preferably identified, reviewed and/or cataloged for each identified medical facility: (i) location, preferably including one or more subcategories of street addresses, cities, states, countries, regions... (ii) types of medical services (e.g., the available medical services are identified and cataloged to enable matching a medical emergency with medical facilities capable of handling it. For example, if a medical facility has a magnetic resonance imaging machine (MRI), or radiological equipment, that medical facility can be cataloged to provide medical services requiring such equipment, e.g., services relating to fractures or internal scans.); (iii) medical staff and languages spoken (the names, background and languages of doctors and medical staff including respective practice areas may be catalogued to assist in evaluating and identifying a medical facility, for example, by matching specialties and languages to a given medical emergency..." [see paragraph 0047]

Although, the system according to Singleton teaches providing information regarding medical services and facilities available in a foreign location, it is would be obvious to one of ordinary skill in the art that the system can be configured to deliver

other types of medical assistance/services available to a patient traveler in a foreign location.

Thus, the combination of Kleinschmidt, Tallman and Singleton, at least teaches or suggest the limitations of claims 26 and 30, as well as dependent claims 27-29.

Applicant's arguments with respect to the rejection of claims 5-7 under 35 U.S.C. 103(a) as being unpatentable over Kleinschmidt in view of Tallman and further in view of US 2005/0075909 (Flagstad) have been fully considered but they are not persuasive.

Applicant submits that based on the cited portions of Flagstad, Examiner apparently concludes that Flagstad's patient's medical file is a life saving article and that Flagstad's Internet server is practically a URL.

Applicant argues that the Examiner's interpretation means that the life saving article is stored in the Internet server, which is neither the purpose of the present invention, nor is it the language of the claim.

Applicant submits that the present invention teaches a life saving article that contains a URL "to gain access to the traveler's personal medical file" and that "the step of sending a request to a server further comprises sending the request to the URL identified on the life saving article". Flagstad's storage medium 44 of the Internet server 40 is merely a backup of the CD 50 and vice versa, and therefore none contains information the other does not.

In addition, Applicant argues that CD 50 does not include a URL for accessing Internet server 40 for more information. Furthermore, none of the prior art teaches "sending a request to a server" comprising a URL "to gain access to the traveler's personal medical file".

Also, Applicant submits that claim 5, as well as its dependent claims 6 and 7, are allowable.

Regarding claim 6, Applicant submits that Flagstad does not teach "a necklace with a notice plate, a plastic card, a key-holder with a medical plate, and a sticker". Flagstad teaches only storage devices that are applicable to storing medical data files, while none of the elements listed in the limitation of claim 6 is necessarily a storage device.

In response to Applicant's arguments, Examiner respectfully disagrees.

Applicant's specification discloses an exemplary life saving article (LSA) 300. The LSA 300 may be in a variety of shapes or forms and the illustrated embodiment is in the shape of a credit card. Other exemplary embodiments of LSA 300 may include the shape of: a necklace with a notice plate, a key-holder with a medical plate and a sticker. Preferably, the LSA 300 displays information regarding the traveler carrying the LSA. The LSA information can include, but is not limited to, the traveler's name 310; the date of birth 320; the blood type 330; any allergies 340; and additional remarks 350 that may indicate other personal information regarding the traveler. In addition to the personal information, the LSA 300 may contain information about the MWS 130 (FIG.

1). The MWS information can include the URL of the MWS 360, identifying information such as the user ID that is associated with the traveler 370 and an emergency password 380 for accessing the MWS... By using the web server address 360, ID number 370 and the emergency password 380, the emergency medical staff may communicate with the MWS 130 and retrieve information about the traveler. This information can assist them in providing medical support or attention to the traveler. The emergency access of the emergency medical staff may be limited to certain pages, records or data in the MWS 130. [see Applicant's specification, paragraph 0054 and 0055]

From the above paragraphs, the life saving article contains medical information as well as URL to the server that contains similar medical information that can be retrieved in case of an emergency when the traveler is unconscious. Thus, the server serves a backup to the information available on the life saving article.

The system according to Flagstad teaches a similar method wherein "the memory used to store the medical record can be a portable medium, such as a CD or DVD, another optical disk format, a "smart card," or the like, and can be small enough to fit in the patient's wallet, purse or pocket. Optionally, the memory can be linked to a computer communications network (for example, the Internet) as part of a storage server and the medical record can be remotely retrieved from the memory through the Internet. [see paragraph 0022]

In addition, Flagstad teaches that "at least the most pertinent part of the medical record for emergency treatment is also stored on the CD 50. Referring to FIG. 1, in

accordance with an embodiment of the present invention, basic information of the service provider (for example its name and website), of the patient (for example his or her name, account number, user ID, or password for emergency access to medical records), and instructions for use can be printed on a label 54 attached to the CD 50, and the patient's medical file can be burned onto one or more surfaces such as 56 of the CD 50. [see paragraph 0048]

Thus, pertinent medical information for emergency treatment are stored on memory such as CD, smart card, etc. Website information, username and password to access a patient's pertinent information are provided on the memory (CD, smart card, etc.). Thus, the teachings of Flagstad, at least teaches or suggests, the limitation of claim 6. In addition, the system according to Flagstad describes various functional equivalent articles to perform the function of claim 6.

Thus, claims 5-7 and 28 are unpatentable over the cited references.

Applicant's arguments with respect to the rejection of claim 8 under 35 U.S.C. 103(a) as being unpatentable over Kleinschmidt in view of Tallman and further in view of US 4,803,625 (Fu) have been fully considered but they are not persuasive.

Applicant submits that Fu teaches "A personal health monitor includes sensors for measuring patient weight, temperature, blood pressure, and ECG waveform. The monitor is coupled to a central unit via modems and includes a computer which is programmed to prompt a patient to take prescribed medication at prescribed times, to

use the sensors to measure prescribed health parameters, and to supply answers to selected questions." [Abstract].

Applicant submits that Examiner states that Fu teaches, in col. 5 lines 6-26, "a medical measurement device that can be attached to the traveler and is operable to take certain medical measurements of the traveler, and the method further comprises the step of taking the certain medical measurements and transferring the certain medical measurements to the server." In col. 5 lines 6-38 Fu teaches a home unit operative "to log data indicative of various health parameters of the patient on a schedule prescribed by the attending physician... and automatically communicates logged information with the central unit based on pre- programmed reporting times plus special reports made in response to triggering events... The central unit generates reports of logged patient parameters for analysis and response by trained medical personnel"

Applicant argues that the limitation of "take certain medical measurements of the traveler" and "transferring the certain medical measurements to the server" should be read in the context of claim 1, that is: "receiving a selection of one of the selection buttons; sending a request to a server; and the server delivering the medical assistance". Evidently neither of Kleinschmidt, Tallman and Fu discusses a server delivering medical assistance. Singleton too does not discuss a server delivering medical assistance.

Applicant submits that Even if navigation instructions (Singleton) are considered medical assistance, their combination requires that Kleinschmidt detects a user's

selection of Tallman selection button (originally to be used by a trained nurse) initiating Fu's log of health parameters being sent to Singleton's server that responds with medical navigation directions (not medical assistance) responsive to the selected button and presented by Kleinschmidt in the selected language and customized based on the selected country. Not just that this complicated sequence is not taught by any combination of the prior art, it is evidently not obvious even if all its components would have been present in the prior art.

In addition, Applicant submits that claim 29 is allowable for the reasons detailed above with reference to claims 26 and 8.

In response to Applicant's arguments, Examiner respectfully disagrees.

Claim 8 recites, "the method of claim 1 further comprising a medical measurement device that can be attached to the traveler...to take measurement...the method further comprising taking the certain medical measurements and transferring the certain medical measurements to the server."

Though, the limitations of claim 1 are incorporated into claim 8, the recited claim language does not interpret/read that the "taking of medical measurements and transferring the medical measurements" are in response or in the context of, "receiving a selection", "sending a request to a server" and "delivering the medical assistance". Claim 8 recites a measuring device used for taking measurements and sending the measurements to the server.

The system according to Fu teaches a device for measuring health vital of a patient and transferring the measurements to a server for storage. A record of a patient's health vital measured using the portable device described in Fu can be transferred and stored in a database similar to Kleinschmidt, which contains a patient's medical data for retrieval while in a foreign country in case of a medical emergency.

Thus, the combination of Kleinschmidt, Tallman, Singleton and Fu, at least teaches or suggests, the limitations of claims 8 and 29.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEGUN GOYEA whose telephone number is

(571)270-5402. The examiner can normally be reached on Monday through Thursday, 8:00am to 5:00pm (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Gart can be reached on (571)272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/O. G./
Examiner, Art Unit 3687
10/18/2011

/Matthew S Gart/
Supervisory Patent Examiner, Art Unit 3687